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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,185	10/12/2000	Igor Philip Passos Proglhof	J&J 1796	3467

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 05/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/673,185

Examiner

C. Lynne Anderson

Applicant(s)

PROGLHOF, IGOR PHILIP
PASSOS

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 9-10, 13-17, and 20-22 are are rejected under 35 U.S.C. 102(b) as being anticipated by Pietsch (DE 24 23 790).

Pietsch discloses a tampon, as shown in figure 1, having a removal cord comprising synthetic fibers, as described on page 5, lines 25-28. The removal cord is heat shrunk to 20% of its original size, as described on page 5, lines 1-4. In use the removal cord is extended to its original size, as described on page 5, lines 18-24, and therefore has an extensibility of 80%.

With respect to claims 14-17, the texture of the removal cord created by the heat crimping causes the removal cord to inherently have a two-phase tensile stress-strain

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curve having an inflection point between the two phases. All stress-strain curves have a Young's modulus, and the Young's modulus for the first phase will be smaller than that of the second phase.

Claims 10-15 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al. (6,142,984).

Brown discloses a tampon having a removal cord comprising textured synthetic fibers, as described in column 2, line 25.

With respect to claims 11 and 18, the removal cord may be textured by crocheting, as disclosed in column 2, lines 35-39, which results in a helical texture.

With respect to claims 12 and 19, the removal cord may be textured by braiding, as disclosed in column 2, lines 35-39, which results in a zigzag texture.

With respect to claim 13, the fibers are nylon, as disclosed in column 4, lines 7-10.

With respect to claims 14-17, the texture of the fibers causes the removal cord to inherently have a two-phase tensile stress-strain curve having an inflection point between the two phases. All stress-strain curves have a Young's modulus, and the Young's modulus for the first phase will be smaller than that of the second phase.

With respect to claims 20-22, the fibers will inherently go through a phase of elastic deformation before reaching the point of plastic deformation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8, 11-13, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pietsch (DE 24 23 790) as applied to claim 1 above, and further in view of Brown et al. (6,142,984).

With respect to claims 5, 6, 11, 12, 18, and 19, Pietsch discloses all aspects of the claimed invention but remains silent as to the design of the texture. Brown discloses a tampon comprising a removal cord having a texture, making the removal cord easier to grip, and therefore use, as described in column 1, lines 44-46. The removal cord may be textured by crocheting, as disclosed in column 2, lines 35-39, which results in a helical texture, or by braiding, as disclosed in column 2, lines 35-39, which results in a zigzag texture.

It would be obvious to one of ordinary skill in the art at the time of invention to construct the removal cord of Peitsch with the texture of Brown to allow for easier use of the tampon.

With respect to claims 7 and 8, Peitsch discloses all aspects of the claimed invention but remains silent as to the number of cables and fibers in the removal cord. Brown discloses a tampon comprising a removal cord constructed of two or more cables, as described in column 3, lines 65-67. The cables comprise 50 fibers, as disclosed in column 4, lines 11-13. This results in a removal cord having a desirable denier, having substantial strength to withstand pulling during removal of the tampon.

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It would be obvious to one of ordinary skill in the art at the time of invention to construct the removal cord of Peitsch with the number of cables and fibers taught by Brown, in order to have a substantially strong removal cord.

Conclusion

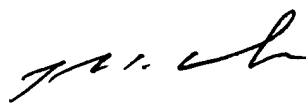
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 3,998,225 and 3,863,636 pertain to tampons having textured removal cords.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

cla
May 6, 2002


John G. Weiss
Supervisory Patent Examiner
Group S700